

(8) Corps assistance is limited to 30 days. Extension of this period requires a formal agreement between the State and the Corps, covering specified services and providing a firm schedule for local interests to provide normal supplies.

(9) State and local governments must make full use of their own resources, including National Guard capabilities.

(10) Requests for assistance must be signed by the Governor of the State. For Indian tribal lands, the Bureau of Indian Affairs will normally request assistance.

(c) *Non-Federal responsibilities.* Non-Federal interests are responsible for restoration of the routine supply of clean drinking water, including correcting any situations which cause contamination. If assistance is furnished, local interests must furnish the basic requirements of local cooperation. In all cases reasonable water conservation measures must be implemented. Local interest may be required to operate and maintain temporary supply equipment and to remove and return it to Federal interest after the problem is corrected.

#### § 203.52 Drought assistance.

(a) *Authority.* The Chief of Engineers, acting for the Secretary of the Army, has the authority under certain statutory conditions to construct wells and to transport water to farmers, ranchers and political subdivisions within areas he determines to be drought-distressed. This authority was added to Pub. L. 84-99 by Pub. L. 95-51.

(b) *General policy.* (1) It is a non-Federal responsibility for providing an adequate supply of water to its inhabitants. Corps assistance to provide emergency water supplies will only be considered when non-Federal interests have exhausted reasonable means for securing necessary water supplies, including assistance and support from other Federal agencies.

(2) Before Corps assistance is considered under Pub. L. 95-51, the applicability of other Federal assistance authorities should be evaluated. If these programs cannot provide the needed assistance, then maximum coordination should be made with appropriate agencies in implementing Corps assistance.

(3) An analysis will be made of costs of the proposed work and of any reasonable alternatives.

(c) *Definitions*—(1) *Construction.* This term includes initial construction, reconstruction or repair.

(2) *Drought-distressed area.* An area which the Secretary of the Army determines, due to drought conditions, has an inadequate water supply which is causing, or is likely to cause, a substantial threat to the health and welfare of the inhabitants of the area including threat of damage or loss of property.

(3) *Eligible applicant.* Any rancher, farmer or political subdivision within a designated drought-distressed area that is experiencing an inadequate supply of water due to drought.

(4) *Farmer or rancher.* An individual who realizes at least  $\frac{1}{3}$  of his/her gross annual income from agricultural sources and is recognized in the community as a farmer or rancher. A farming partnership or corporation engaged in farming or ranching which receives its majority income from such activity may be considered as an eligible applicant.

(5) *Political subdivision.* A city, town, borough, county, parish, district, association, or other public body created by or pursuant to State law, having jurisdiction over the water supply of such public body.

(6) *Reasonable cost.* In connection with the Corps construction of a well, means the lesser of:

(i) The cost of the Chief of Engineers to construct a well in accordance with these regulations exclusive of;

(A) The cost of transporting equipment used in the construction of wells,

(B) The cost of investigation and report preparation to determine the suitability to construct a well, or

(ii) The cost to a private business of constructing such a well.

(7) *State.* Any State, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, Northern Mariana Islands, American Samoa, and the Trust Territory of the Pacific Islands.

(d) *Guidance-construction of wells.* (1) Assistance to an eligible applicant by the construction of a well may be provided on a cost-reimbursable basis if:

(i) It is in response to a written request by a farmer, rancher or political subdivision for construction of a well under Pub. L. 95-51.

(ii) The applicant is located within an area which has been determined by the Secretary of the Army to be drought-distressed.

(iii) The Secretary of the Army has made a determination that:

(A) The applicant, as a result of the drought, has an inadequate supply of water.

(B) An adequate supply of water can be made available to the applicant through the construction of a well.

(C) As a result of the drought, the well could not be constructed by a private business within a reasonable time.

(iv) The applicant has secured the necessary funding for well construction from commercial or other sources, or has entered into a contract to pay to the United States the reasonable cost of such construction with interest over a period of years, not to exceed 30, as the Secretary of the Army deems appropriate.

(v) The applicant has obtained all necessary Federal, State and local permits.

(2) The financing of the cost of construction of a well by the Corps under this authority should be secured by the project applicant.

(3) The project applicant will provide the necessary assurances of local co-operation prior to the start of Corps work under this authority.

(4) Equipment owned by the United States will be utilized to the maximum extent possible in exercising the authority to drill wells. Federally-owned well drilling equipment can only be used when commercial firms cannot provide comparable service within the time needed to prevent the applicant from suffering increased hardships from the effects of an inadequate water supply. Use of equipment owned by non-Federal interests would only be appropriate in the unusual circumstance when both of the above conditions can be met.

(e) *Guidance—transport of water.* (1) Assistance to an applicant in the transportation of water may be provided only if:

(i) It is in response to a written request by a farmer, rancher or political subdivision for transportation of water under Pub. L. 95-51.

(ii) The applicant is located within an area which has been determined by the Secretary of the Army to be drought-distressed.

(iii) The Secretary of the Army has made a determination that, as a result of the drought, the applicant has an inadequate supply of water for human and livestock consumption and water cannot be obtained by the applicant.

(2) Transportation of water by vehicles, small diameter pipe line, or other means will be at 100 percent Federal cost.

(3) Corps assistance in the transportation of emergency water supplies will be provided only in connection with water needed for human and livestock consumption. It will not be provided in connection with water needed for irrigation, recreation or other non-life supporting purposes.

(4) Corps assistance will not include the purchase of water nor the cost of loading or discharging the water into or from Government conveyance.

(5) Equipment owned by the United States will be utilized to the maximum extent possible in exercising the authority to transport water.

(f) *Request for assistance.* Written request must be made to the district commander or division commander with Civil Works responsibility for the affected area. Upon receipt of a written request, the appropriate State and Federal agencies will be notified and coordination in accordance with §203.52(b) of this section will continue as appropriate throughout the assistance.

## Subpart F—Advance Measures

### § 203.61 Policy.

“Advance Measures” consists of those activities performed prior to flooding or flood fight to protect against loss of life and damages to improved property from flooding. Emergency work under this authority will be considered when requested by the Governor of a State confronted with an immediate threat of unusual flooding. Corps assistance will be to complement